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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA

-v-

05-CR-270
[TJM]

DAVID J. FALSO,
DEFENDANT.

**STIPULATION IN SUPPORT OF AN EXTENSION OF TIME
FOR THE DEFENDANT TO FILE MOTIONS AND SPEEDY TRIAL EXCLUSION**

Thomas A. Saitta, Esq. states as follows:

1. I am an attorney, duly licensed to practice in the State of New York, and admitted to the Bar of the United States District Court for the Northern District of New York. I am a member for the law firm of Aswad & Ingraham, attorneys, for the defendant herein. As such, I am fully familiar with the facts and circumstances of this case as they have been made known to the defense to date.

2. For the reasons set forth herein, with the consent of the government and pursuant to the provisions of Section 12.1 of the Local Rules of Criminal Procedure contained in the Local

Rules of Practice for the District Court of the Northern District of New York (hereinafter referred to as the Local Rules), and Title 18, United States Code, Section 3161(h)(8)(A) and (B) the ends of justice served by an extension of the period in which to file motions for **1 week** to January 4, 2006 and the exclusion of such outweighs the interest of the public, the defendant and the government in a speedy trial within the meaning of that statute.

3. As we have previously noted this case is, by its nature, an unusual and complex case, in that the indictment pending against Mr. Falso alleges 242 counts claiming the possession and production of child pornography and traveling to several countries to engage in sexual activities with minors. A number of these counts involve evidence allegedly obtained from a computer hard drive and/or evidence of conduct in a number of foreign countries. Additionally, these counts also involve evidence obtained through a search warrant which warrant was supported by evidence allegedly obtained based upon a forensic analysis of certain websites, e-mail addresses and records of internet service providers.

4. The defense has retained a forensic expert in the field of computer science to analyze the information allegedly obtained from the hard drive of the computer seized from the defendant's home, and review the allegations set forth in the application for the search warrant used to search his home. We are currently awaiting the opinion of our expert which we believe will be forthcoming in the next few days. Absent this information, we cannot adequately complete the motions we believe should be filed, nor can we adequately advise Mr. Falso as to the benefits of entering into the plea agreement proposed by the Government which we have been told will not be available should motions be filed.

5. The government joins in this application, as is indicated by the signature of the Assistant United States Attorney below.

6. Therefore, it is respectfully requested that the time for filing motions for the defendant be extended to January 4, 2006, from its currently deadline of December 28, 2005, as provided in the Court's prior order of October 24, 2005 and that such period of 1 week be excluded from the otherwise applicable time provisions of the Speedy Trial Act (Title 18, United States Code, Section 3161, et seq. Based upon the above facts and pursuant to the provisions of Section 12.1 of the Local Rules and Title 18, United States Code, Section 3161(h)(8)(A) and (B), it is submitted that the ends of justice served by such exclusion of time outweigh the interest of the public, the defendant and the government in maintaining the motion deadline contained in the Court's prior order of October 24, 2005, and in a speedy trial within the meaning of the statute. Absent such extension, the defendant would be unable to file the motions necessary to properly represent the defendant in this action.

Respectfully submitted,



Thomas A. Saitta, Esq.
Federal Bar Roll # 102510

Dated: December 27, 2005

Consented and agreed to by:



Miroslav Lovric
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

05-CR-270
[TJM]

DAVID J. FAISO,
DEFENDANT.

**FINDINGS OF FACT AND ORDER OF THE EXTENDING
TIME TO FILE DEFENSE MOTIONS AND SPEEDY TRIAL TIME LIMITS**

The Court, having reviewed the application of Thomas A. Saitta, Esq., hereby makes the following findings of fact and does hereby **Order** the following based upon those findings and the facts presented in the application of Thomas A. Saitta, Esq., pursuant to the provisions of Section 12.1 of the Local Rules of Criminal Procedure contained in the Local Rules of Practice for the District Court of the Northern District of New York (hereinafter referred to as the Local Rules), and Title 18, United States Code, Section 3161(h)(8)(A) and (B).

THE COURT FINDS THAT:

1. For the reasons articulated in this application and pursuant to the provisions of Section 12.1 of the Local Rules and Title 18, U.S.C., Section 3161(h)(8)(A)&(B) the ends of justice served by the requested extension of **1 week** outweigh the interest of the public, the defendant,

and the government in maintaining the original deadline for filing defense motions contained in the Court's prior order of October 24, in a speedy trial, within the meaning of Title 18, United States Code, Section 3161(h)(8)(A)&(B). Absent the requested extension **1 week**, the defendant would be unable to file the motions he deems necessary in this action, and the defendant and the government would be denied the reasonable time necessary for effective case preparation, taking into account due diligence, including making the most informed decision possible as to the advisability of entering into a plea agreement.

2. In the current indictment, defendant Falso has been charged with 242 counts relating to child pornography, production of child pornography, traveling to engage in sex with minors, and other offenses. This indictment covers a period of approximately 5 years worth of conduct. Discovery has been provided and also made available to defendant and it is still being reviewed and analyzed by the defense.

3. This case by its nature is unusual and complex pursuant to Title 18, U.S.C., Section 3161, in that, the 242 charges relate to conduct occurring over a period of several years and conduct which included travel to multiple foreign countries. Additionally, the Government has indicated its intention to present evidence obtained through a search warrant which warrant was supported by evidence allegedly obtained through a forensic analysis of certain websites, e-mail addresses and records of internet service providers. As such the case also involves the need for extensive scientific and technical computer analysis. The requested extension will allow the defense the time to complete such analysis.

4. The government joins in this application.


WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

The deadline for filing defense motions set forth in the Court's prior order of October 24, 2005, shall be extended for a period of 1 week to January ³~~7~~, 2006 and such period shall be excluded from the otherwise applicable time provisions of the Speedy Trial Act (Title 18, United States Code, Section 3161 et seq.), based upon the findings of fact set forth herein and in the application of Thomas A. Saitta, Esq., all pursuant to Section 12.1 of the Local Rules and Title 18, United States Code, Sections 3161(h)(8)(A)&(B).

AS TO INDICTMENT 05-CR-270:

- A. Defense Motions shall be filed on: 1/3/06
- B. The government's response papers shall be filed on: 1/17/06
- C. The motions are returnable on 1/27/06, at the Federal Courthouse in Binghamton New York at 10:00 am per Judge McAvoy.
- D. The trial in this matter is scheduled for and shall commence on 2/6/06, at the Federal Courthouse in Binghamton New York at 10:00 am

DATED: December 28, 2005.


THOMAS J. MCAVOY
Senior Judge, United States District Court
Northern District of New York